

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

FRED D. REEVES, JR.,

Plaintiff,

v.

Case No. 08-13776

CORRECTIONAL MEDICAL SERVICES,

Defendant.

ORDER DIRECTING PLAINTIFF TO PREPAY THE FILING FEE

Plaintiff Fred D. Reeves, Jr., is a state prisoner at Standish Maximum Correctional Facility in Standish, Michigan. He has filed a *pro se* civil rights complaint against Correctional Medical Services (CMS) of East Lansing, Michigan. The complaint alleges that Plaintiff suffers from severe pain in his lower back and both numbness and sharp pain in his legs due to an injury incurred several years ago when prison guards assaulted him. Plaintiff claims that CMS refuses to pay for a magnetic resonance imaging (MRI) examination, which doctors have requested. (Petr.'s Mot. at 4a.) He seeks an MRI examination and money damages in the amount of three million dollars.

Plaintiff has applied for leave to proceed without prepayment of the filing fee for this action even though three of his prior complaints have been dismissed as frivolous or for failure to state a claim. See *Reeves v. Gilman, et al.*, No. 1:05-cv-17, at 3 (W.D. Mich. Feb. 23, 2005) (memorandum opinion directing Plaintiff to pay the entire filing fee because the court previously dismissed three of Plaintiff's lawsuits for failure to state a claim). Plaintiff seeks permission to proceed without prepayment of the filing fee under

the exception for prisoners in “imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

The facts as alleged in the complaint indicate that Plaintiff is in pain, not in imminent danger of serious physical injury. (Petr.’s Mot. at 4a.) His condition has not been ignored, and he is being treated with Motrin and Tylenol. (*Id.*) Although he alleges that rest and the medications provided to him do not relieve the pain, he does not claim to have a serious illness, disease, or infection. (Petr.’s Mot. at 4b.)

The court concludes that Plaintiff has not met the threshold for “imminent danger of serious physical injury.” See, e.g., *Joyner v. Fish*, No. 7:08-cv-00359 (W.D. Va. July 3, 2008) (unpublished decision concluding that the plaintiff failed to demonstrate any imminent danger of serious physical harm where he complained of inadequate medical treatment for back pain and sought an MRI examination and prescription medication rather than x-rays and nonprescription medication); *Twitty v. U.S. Attorney General-Acting*, No. 08-cv-00549 (D. Colo. May 28, 2008) (unpublished decision denying leave to proceed without prepayment of the filing fee where the plaintiff alleged pain in his groin for over three years due to a hernia operation and an alleged assault); *Butler v. Baker*, No. 9:06-cv-0893 (N.D.N.Y. Feb. 7, 2008) (concluding that the plaintiff did not indicate an imminent danger of serious physical injury where he complained of continued pain from a wrist injury and alleged only that the injury was inadequately treated); *Davis v. Kakani*, No. 06-13704 (E.D. Mich. July 31, 2007) (unpublished decision adopting the Magistrate Judge’s conclusion that Plaintiff had failed to show his back pain presented imminent danger of serious physical injury where the plaintiff was receiving pain medication and had undergone surgery and physical therapy).

Accordingly,

IT IS ORDERED THAT Plaintiff PREPAY the filing fee of \$350.00 within **twenty-eight (28) days** of the date of this order. Failure to do so may result in the dismissal of this action.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 20, 2008

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 20, 2008, by electronic and/or ordinary mail.

s/Lisa G. Wagner
Case Manager and Deputy Clerk
(313) 234-5522